

such rehearing reversing, changing, or modifying the original order shall be subject to the same provisions with respect to rehearing as an original order”.

1961—Pub. L. 87-192 provided for petition for rehearing to the authority making or taking the order, decision, report, or action, substituted references to report and action for requirement, wherever else appearing, and inserted references to proceeding by any designated authority within the Commission, wherever appearing.

1960—Pub. L. 86-752 substituted “any party” for “and party” in first sentence, and inserted sentence dealing with disposition of petitions for rehearing.

1952—Act July 16, 1952, provided for taking of newly discovered evidence and evidence which should have been taken in original hearing.

#### EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-752, §4(d)(4), Sept. 13, 1960, 74 Stat. 892, provided that: “The amendment made by paragraph (2) of subsection (c) of this section [amending this section] shall only apply to petitions for rehearing filed on or after the date of the enactment of this Act [Sept. 13, 1960].”

### § 406. Compelling furnishing of facilities; mandamus; jurisdiction

The district courts of the United States shall have jurisdiction upon the relation of any person alleging any violation, by a carrier subject to this chapter, of any of the provisions of this chapter which prevent the relator from receiving service in interstate or foreign communication by wire or radio, or in interstate or foreign transmission of energy by radio, from said carrier at the same charges, or upon terms or conditions as favorable as those given by said carrier for like communication or transmission under similar conditions to any other person, to issue a writ or writs of mandamus against said carrier commanding such carrier to furnish facilities for such communication or transmission to the party applying for the writ: *Provided*, That if any question of fact as to the proper compensation to the carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper pending the determination of the question of fact: *Provided further*, That the remedy given by writ of mandamus shall be cumulative and shall not be held to exclude or interfere with other remedies provided by this chapter.

(June 19, 1934, ch. 652, title IV, §406, 48 Stat. 1095.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

### § 407. Order for payment of money; petition for enforcement; procedure; order of Commission as prima facie evidence; costs; attorneys’ fees

If a carrier does not comply with an order for the payment of money within the time limit in

such order, the complainant, or any person for whose benefit such order was made, may file in the district court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the line of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the district court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suits the findings and order of the Commission shall be prima facie evidence of the facts therein stated, except that the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail, he shall be allowed a reasonable attorney’s fee, to be taxed and collected as a part of the costs of the suit.

(June 19, 1934, ch. 652, title IV, §407, 48 Stat. 1095.)

### § 408. Order not for payment of money; when effective

Except as otherwise provided in this chapter, all orders of the Commission, other than orders for the payment of money, shall take effect thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order.

(June 19, 1934, ch. 652, title IV, §408, 48 Stat. 1096; Pub. L. 97-259, title I, §123, Sept. 13, 1982, 96 Stat. 1098.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### AMENDMENTS

1982—Pub. L. 97-259 substituted provision that all orders of the Commission but for payment of money shall take effect thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date, and that such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order, for provision that such orders would take effect within such reasonable time, not less than thirty days after service of the order, and would continue in force until its further order, or for a specified period of time, as prescribed in the order, unless the same were suspended or modified or set aside by the Commission, or suspended or set aside by a court of competent jurisdiction.

### § 409. Hearings

#### (a) Filing of initial decisions; exceptions

In every case of adjudication (as defined in section 551 of title 5) which has been designated